

REMARKS

Claims 1-24 are pending in the application.

The specification is objected to based on formalities.

Claim 6 is objected to because of informalities.

Claims 11-22 stand rejected under 35 U.S.C. 101 as being directed towards non-statutory subject matter.

Claims 1-5, and 11-22 stand rejected under 35 U.S.C. 102(b) as being anticipated by Jingsha He's (U.S. Patent No. 5,944,824, hereinafter, "He").

Claims 6, 7 and 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by Tadhg Kelly et al. (U.S. Patent No. 6,678,826, hereinafter, "Kelly").

Claims 8, 9, 23, and 24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of He.

Reconsideration and allowance of all pending claims is respectfully requested in view of the following remarks.

Claim Objections

Claim 6 stands objected to due to informalities. Applicants have amended the claim based on the recommendations in the Office Action. Accordingly, Applicants respectfully request the objection to the claim be withdrawn.

Rejection of Claims 11 - 22 under 35 U.S.C. § 101

With regard to claim 11, Applicants have amended the claim to recite, "one or more computer-readable storage media having computer-useable instructions embodied thereon, the instructions, when executed on a computing device cause the computing device to:... ”). Applicants respectfully submit that amended claim 11 is now embodied in a statutory class of invention and, accordingly, complies with 35 U.S.C. § 101. Support for this amendment can be found at least in the

specification, paragraph [0032] on page 10. Therefore, Applicants respectfully request that the rejection of Claim 11 under 35 U.S.C. § 101 be withdrawn.

Claims 12 – 22 depend from independent claim 11 and, therefore, should be allowable for at least the same reasons.

Rejections under 35 U.S.C. § 102

With regard to the rejection of claim 1 as being anticipated by He, Applicants are amending claim 1 to further clarify the claimed invention. Support for the amendments can be found in the specification, at least on page 13, paragraph [0040]. Applicants recite in amended claim 1,

“a modem bank including a plurality of modems in communication with said first and second servers and operable to authenticate a request to access remote network elements and to communicate operation status of a plurality of network elements.”

(Emphasis added.)

He, by contrast, includes a Secure Terminal Server 24 (equated to the second server in the Office Action) in direct communication with a Network Element 20 over an RS232 link. The Office Action cites He, col. 4, lines 43-45, as operating as a modem bank. Applicant respectfully disagrees that the secured terminal server 24 is or operates as a plurality of modems or a modem bank, as now recited in claim 1. He mentions no modem bank, nor a plurality of modems, as recited in amended claim 1. As noted in Applicants' originally filed specification, the presence of the modem bank provides additional security to the dial up access. He does not disclose or suggest a modem bank being present. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 102 be withdrawn.

Claims 2 – 5, which depend from independent claim 1, should be allowable for at least the same reasons.

With regard to the rejection of independent claim 11 as being anticipated by He, Applicants amend claim 11 to further clarify the invention. Support for the amendment to claim 11 can be found at least in the specification on paragraph [0044], which states that the “Second server 232 determines which modem 236 is available in modem bank 238 and may select a modem 236 based upon a rotational selection scheme.” Applicants recite in amended claim 11,

“...direct a server to identify one of a plurality of modems located in a modem bank that can provide feedback related to said network device...” (Emphasis added.)

Similar to claim 1, He does not mention a modem bank, nor a plurality of modems as recited in the claim. The portion of He that was cited in the Office Action states “[a] ticket is returned 328 from the security server 15 node that contains the SSO data: <NE, User Log-on Identifier, Present Password, New Password> which are encrypted and invisible to the user.” This section is referring to the identification of the network element (NE), not the identification of one of a plurality of modems located in a modem bank that can provide feedback related to said network device. The Office Action appears to be equating “a plurality of modems” with “the remote modem” as also referred to in the claim. However, the claim has been amended to clarify that “one of the plurality of modems” is different from the “remote modem.” As illustrated in FIG. 2B of the instant application, there are two different sets of modems – one modem 236 being found in a modem bank 238 located in direct communication with the second server 232, and another modem being referred to as a remote modem 248, located adjacent to the remote element 250 (or network element) at a remote site 252. The network element in He does not equate nor suggest a plurality of modems located in a modem bank, nor a remote modem as expressly claimed. Therefore, He cannot anticipate each and every element of the claim. Accordingly, because He fails to teach a plurality of modems or a modem bank, as disclosed in the claim, Applicants respectfully request that the rejection under 35 U.S.C. § 102 be withdrawn.

Claims 12 – 22, which depend from independent claim 11, should be allowable for at least the same reasons.

Additionally, regarding dependent claim 19, claim 19 recites in part, “selecting a modem from a modem pool; receiving a response from said server to establish a link with said pooled modem;...” The Office Action cites column 14, lines 59 – 63, which states “[a] ticket is returned 328 from the security server 15 node that contains the SSO data: <NE, User Log-on Identifier, Present Password, New Password> which are encrypted and invisible to the user.” As mentioned previously, there is no “pool” or “bank” of modems being referred to in the cited section of He, nor anywhere else in He. For this additional reason, claim 19 cannot be fairly said to be anticipated by

He. For at least the above reasons, Applicants respectfully request that the rejection under 35 U.S.C. § 102 be withdrawn.

With regard to the rejection of claim 6 as being anticipated by Kelly, Applicants amend the claim to clarify the invention. Support for the amendments can be found in the specification, at least on page 13, paragraph [0040]. Applicants have amended claim 6, in part, to recite:

“... requesting from a first network device, out-of-band access to a second network element via one of a plurality of modems located in a modem bank configured to communicate with a remote modem; communicating, from the first network device via the one of a plurality of modems, with the remote modem coupled to said second network element...” (Emphasis added)

Kelly performs authentication for access to network elements during maintenance of wide area networks by distributing security databases to security gates at each maintenance port of each network element (See Kelly Abstract). In FIG. 1, Kelly depicts multiple Security Gates, each having a dial-in modem that connects to the maintenance ports of the network elements. Kelly does not disclose or suggest that there are a plurality of modems located in a modem bank configured to communicate with a remote modem, only a single modem configured to communicate with a maintenance port on a network element. Using a modem bank allows for an available modem to be selected for the connection, while limiting the number of possible dial in numbers from which the remote modem would have to accept a connection. Accordingly, because Kelly fails to teach “a plurality of modems located in a modem bank configured to communicate with a remote modem,” Applicants respectfully request that the rejection under 35 U.S.C. § 102 be withdrawn.

Rejections under 35 U.S.C. § 103

With regard to the rejection of dependent claims 8 and 9 under 35 U.S.C. § 103 as being unpatentable over Kelly in view of He, in view of the amendments to claim 6, from which claims 8 and 9 depend, the rejection is respectfully traversed. As stated above, neither He nor Kelly teach or suggest the elements of independent claim 6 as amended.

Accordingly, Applicants respectfully submit that claims 8 and 9 should be allowable over Kelly and He for at least the same reasons as independent claim 6. Therefore, Applicants respectfully request that the rejection under 35 U.S.C. § 103 be withdrawn.

With regard to the rejection of claims 23 under U.S.C. § 103 as being unpatentable over Kelly in view of He, Applicants respectfully traverse the rejection. The Office Action states on page 9, section 30:

“Referring to claim 23, both Kelly (column 1, lines 8 – 10) and He (column 1, lines 7-10) teach a system for performing the methods of claims 5 – 8 and likewise teach the system of claims 23.”

For similar reasoning as presented above with regard to the independent claims, each limitation of the claim, even in combination, is not being taught or suggested in the references. Accordingly, Applicants request the rejections under 35 U.S.C. § 103 be withdrawn. Dependent claim 24 should be allowable for at least the same reasons.

CONCLUSION

For the foregoing reasons, and for other apparent reasons, Applicants respectfully request reconsideration and favorable action. If the Examiner feels a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stand ready to conduct such a conference at the convenience of the Examiner.

Applicants believe no fee is due. However, if a fee is due, please charge our Deposit Account No. 50-2816, under Order No. 024777.0139PTUS from which the undersigned is authorized to draw.

Dated: 6/29/07

Respectfully submitted,

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